



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

SEP 28 2006

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jay Garrison, General Manager
Allcast, Inc.
217 Weis Street
Allenton, Wisconsin 53002

Dear Mr. Garrison:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) and a Administrative Consent Order which resolve Clean Air Act violations alleged against Allcast, Inc. at 217 Weis Street, in Allenton, Wisconsin 53002 CAA Docket No. CAA-05-2006-0036. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 28 2006.

Pursuant to paragraph 9 of the CAFO, Allcast, Inc. must pay the civil penalty within 30 days of \$37,500. Your check must display the case docket number, CAA-05-2006-0036, and the billing document number, 2750603A013.

Please direct any questions regarding this case to Deborah Carlson, Associate Regional Counsel, (312) 886-6121.

Sincerely yours,

A handwritten signature in cursive script that reads "Bonnie Bush".

Bonnie Bush, Acting Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:) Docket No. CAA-05-2006-0036
)
Allcast, Inc.) Proceeding to Assess a Civil
Allenton, Wisconsin) Penalty under Section 113(d)
) of the Clean Air Act,
) 42 U.S.C. § 7413(d)
Respondent.)
_____)

RECEIVED
REGIONAL HEARING CLERK
US EPA REGION V
2006 SEP 28 AM 11:30

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22 (2005).

2. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA).

3. Respondent is Allcast, Inc. (Allcast), a corporation doing business in Wisconsin.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the

issuance of a Consent Agreement and Final Order (CAFO). 40
C.F.R. § 22.13(b) (2005).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Allcast admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Allcast waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Under Section 112 of the Act, the Administrator of U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production facilities at 40 C.F.R. Part 63, Subpart RRR.

10. The NESHAP, at 40 C.F. R. § 63.1500, applies to the owner or operator of each secondary aluminum production facility as defined in Section 63.1503.

11. A secondary aluminum production facility means any establishment using clean charge, aluminum scrap, or dross from aluminum production, as the raw material and performing one or more of the following processes: scrap shredding, scrap drying/delaquering/decoating, thermal chip drying, furnace operations (i.e., melting, holding, sweating, refining, fluxing, or alloying) recovery of aluminum from dross, in-line fluxing or dross cooling. 40 C.F.R. § 63.1503.

12. For purposes of Subpart RRR, aluminum die casting facilities are not considered to be secondary aluminum production facilities if the only materials they melt are clean charge, customer returns or internal scrap. 40 C.F.R. § 63.1503.

13. Customer returns means any aluminum product which is returned by a customer to the aluminum company that originally manufactured the product prior to resale of the product or further distribution in commerce, and which contains no paint or other solid coatings (i.e., laquers).

14. Pursuant to 40 C.F.R. § 63.1500(c), the requirements of Subpart RRR pertaining to dioxin and furan (D/F) emissions and the associated operating, monitoring, reporting and recordkeeping requirements apply to affected sources, located at each new and existing facility that is an area source of hazardous air pollutants as defined in 40 C.F.R. § 63.2, including among other things, furnaces defined as group 1 furnaces in the NESHAP.

15. U.S. EPA issued a Finding of Violation to Allcast on November 3, 2005, citing certain alleged violations of the secondary aluminum production NESHAP.

16. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for NESHAP violations that occurred from January 31, 1997 through March 15, 2004, and may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19 (2005).

17. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

18. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Violations

19. Complainant alleges the facts and violations set forth in paragraphs 20 - 32. Allcast enters into this CAFO solely for the purpose of settling this matter and does not admit liability for the alleged violations.

20. Allcast owns and operates a facility at 217 Weis Street in Allenton, Wisconsin.

21. Allcast's facility includes three furnaces used for melting aluminum.

22. On various occasions between March 2003 and September 2004, Allcast melted coated aluminum customer returns in one or more of its furnaces used for melting aluminum.

23. Allcast's melting of coated customer returns caused Allcast's facility to be subject to the requirements at 40 C.F.R. Part 63, Subpart RRR.

24. Allcast is an area source for Hazardous Air Pollutants (HAPs).

25. By May 24, 2003, Allcast was required to submit an initial notification. Allcast failed to submit that notification, in violation of 40 C.F.R. § 63.1515(a).

26. By May 24, 2003, Allcast was required to submit a notification of compliance status. Allcast failed to submit that notification, in violation of 40 C.F.R. § 63.1515(b).

27. By March 24, 2003, Allcast was required to perform initial performance tests on its affected emission sources. Allcast did not conduct such tests, in violation of 40 C.F.R. § 63.1511(b).

28. By March 24, 2003, Allcast was required to prepare and implement an Operation, Maintenance, and Monitoring (OM&M) Plan. Allcast did not prepare or implement an OM&M plan, in violation of 40 C.F.R. § 63.1510(b).

29. By March 24, 2003, Allcast was required to develop and implement an approved written Startup, Shutdown, and Malfunction (SSM) Plan. Allcast did not develop or implement an SSM plan, in violation of 40 C.F.R. § 63.1516(a).

30. By October 24, 2003, Allcast was required to submit its first Excess Emission/Summary Report. Allcast failed to submit its report, in violation of 40 C.F.R. § 63.1516(b).

31. Allcast failed to operate all new and existing affected sources and control equipment according to the operating requirements in Subpart RRR in violation of 40 C.F.R. § 63.1506(a)(1).

32. Allcast failed to install, calibrate, operate, and maintain a device to measure and record the total weight of feed/charge to, or the aluminum production from, the affected source or emission unit, or to use an approved procedure to determine the total weight of feed/charge to, or aluminum

production from, the affected source or emission unit in violation of 40 C.F.R. § 63.1510(e).

Civil Penalty

33. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and Allcast's cooperation, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$37,500.

34. Allcast must pay the \$37,500 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

35. Allcast must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 371531
Pittsburgh, PA 15251-7531

36. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Deborah Carlson, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

37. This civil penalty is not deductible for federal tax purposes.

38. If Allcast does not pay timely the civil penalty U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C.

§ 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

39. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C.

§ 3717. Allcast will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due.

Allcast will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

Final Statement

40. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Factual Allegations and Violations section of this CAFO.

41. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

42. This CAFO does not affect Allcast's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 40 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant.

43. Allcast certifies that it is not presently in violation of the Secondary Aluminum Production NESHAP.

44. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Allcast's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

45. The terms of this CAFO bind Allcast, and its successors, and assigns.

46. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

47. Each party agrees to bear its own costs and attorneys' fees in this action.

48. This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection Agency,
Complainant**

9-27-06
Date

Pamela Blakely for
Cheryl Newton, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

**Allcast, Inc.
Respondent**

9-22-06
Date

Jay Garrison
Jay Garrison
Allcast, Inc.

CONSENT AGREEMENT AND FINAL ORDER

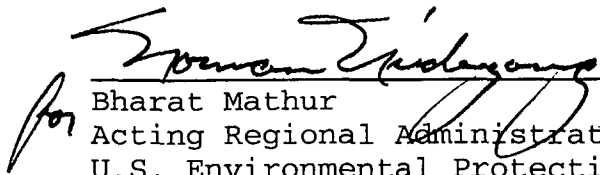
Allcast, Inc., Docket No. CAA-05-2006-0036

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This final order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

9/28/06

Date


for Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

In re: Allcast Inc.
Docket No. CAA-05-2006-0036

CERTIFICATE OF SERVICE

I, Shanee Rucker, certify that I hand delivered the original and one copy of the Consent Agreement and Final Order (CAFO), to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the CAFO and an Administrative Consent Order by first-class, postage prepaid, certified mail, return receipt requested, to Jay Garrison of Allcast, Inc., and Allcast's counsel by placing them in the custody of the United States Postal Service addressed as follows:

Jay Garrison
Allcast Inc.
217 Weis Street
Allenton, WI 53002

John M. Heyde
Sidley Austin LLP
One South Dearborn St.
Chicago, IL 60603

RECEIVED
REGIONAL HEARING CLERK
US EPA REGION 5
2006 SEP 28 AM 11:31

on the 28th day of September, 2006.

Shanee Rucker
Shanee Rucker, Secretary
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1447 9376

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	
Allcast, Inc.)	Administrative Consent Order
Allenton, Wisconsin)	
)	EPA- 5-06-113(a)-WI-01
)	
Proceeding Under)	
Section 113(a) (3))	
of the Clean Air Act,)	
42 U.S.C. §§ 7413(a) (3))	

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Allcast Inc. (Allcast) under Section 113(a) (3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a) (3).

Statutory and Regulatory Background

2. The Administrator of U.S. EPA may promulgate regulations establishing National Emission Standards for Hazardous Air Pollutants (NESHAP) under Section 112 of the Act, 42 U.S.C. § 7412.

3. Under Section 112 of the Act, the Administrator promulgated the NESHAP for Secondary Aluminum Production at 40 C.F.R. Part 63, Subpart RRR. The NESHAP for secondary aluminum applies to the owner or operator of each secondary aluminum production facility as defined at 40 C.F.R. § 63.1503.

4. 40 C.F.R. § 63.1503 defines a secondary aluminum production facility as any establishment using clean charge, aluminum scrap, or dross from aluminum production, as the raw material and performing one or more of the following processes: scrap shredding, scrap drying/delacquering/decoating, thermal chip drying, furnace operations (i.e., melting, holding, sweating, refining, fluxing, or alloying), recovery of aluminum from dross, in-line fluxing, or dross cooling.

5. For purposes of Subpart RRR, aluminum die casting facilities are not considered to be secondary aluminum production facilities if the only materials they melt are clean charge, customer returns or internal scrap. 40 C.F.R. § 63.1503.

6. Customer returns means any aluminum product which is returned by a customer to the aluminum company that originally manufactured the product prior to resale of the product or further distribution in commerce, and which contains no paint or other solid coatings (i.e., lacquers).

7. Pursuant to 40 C.F.R. § 63.1500(c), the requirements of Subpart RRR pertaining to dioxin and furan (D/F) emissions and the associated operating, monitoring, reporting and recordkeeping requirements apply to affected sources, located at each new and existing facility that is an area source of hazardous air pollutants as defined in 40 C.F.R. § 63.2, including among other things, furnaces defined as group 1 furnaces in the NESHAP.

8. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating the NESHAP regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

9. Allcast owns and operates a facility at 217 Weis Street in Allenton, Wisconsin.

10. Allcast's facility includes three furnaces used for melting aluminum.

11. On various occasions between March 2003 and September 2004, Allcast melted coated aluminum customer returns in one or more of its furnaces used for melting aluminum.

12. EPA alleges that Allcast's melting coated customer returns caused Allcast's facility to be subject to the requirements at 40 C.F.R. Part 63, Subpart RRR.

13. Allcast is an area source for Hazardous Air Pollutants (HAPs).

14. On November 3, 2005, U.S. EPA issued to Allcast a Finding of Violation alleging that Allcast violated the NESHAP for secondary aluminum by, failing to submit an initial notification pursuant to 40 C.F.R. § 63.1515(a), failing to submit a notification of compliance status pursuant to 40 C.F.R. § 63.1515(b), failing to prepare and implement an Operation, Maintenance, and Monitoring (OM&M) Plan pursuant to 40 C.F.R. § 63.1510(b), failing to develop and implement a Startup, Shutdown, and Malfunction (SSM) Plan pursuant to 40 C.F.R. § 63.1516(a), failing to conduct initial performance tests pursuant to 40 C.F.R. § 63.1511(b), failing to operate existing affected sources and control equipment according pursuant to 40 C.F.R. § 63.1506(a)(1) and failing to submit excess emission/ summary reports pursuant to 40 C.F.R. § 63.1516(b).

15. On January 4, 2006, representatives of Allcast and U.S. EPA discussed the November 3, 2005 Finding of Violation.

16. EPA alleges that Allcast violated the NESHAP for secondary aluminum production at 40 C.F.R. §§ 63.1506(a)(1), 63.1510(b), 63.1511(b), 63.1515(a), 63.1515(b), 63.1516(a) and 63.1516(b) and Allcast denies liability.

Compliance Program

18. By the effective date of this order, Allcast must operate its furnaces so that it melts, holds or processes only clean charge, customer returns or internal scrap. The customer returns must be aluminum product which is returned by a customer to Allcast, as the aluminum company that originally manufactured the product prior to resale of the product or further distribution in commerce, and must contain no paint or other solid coatings (i.e. lacquers).

19. If Allcast intends to change its operation to use unclean charge or painted or coated customer returns in its furnaces, Allcast must comply with the requirements in 40 C.F.R. Part 63, Subpart RRR applicable to the change in operation.

General Provisions

21. This Order does not affect Allcast's responsibility to comply with other local, State, and federal laws and regulations.

22. This Order does not restrict U.S. EPA's authority to enforce Section 112 of the Act, or any other section of the Act.

23. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for any alleged violations of the NESHAP for secondary aluminum.

24. Failure to comply with this Order may subject Allcast to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19 (2005).

25. The terms of this Order are binding on Allcast, its assignees and successors. Allcast must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that Allcast has given the notice.

26. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

27. While not admitting any factual allegation, Allcast agrees to the terms of this Order.

28. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate five years from the effective date, provided that Allcast has complied with all terms of the Order throughout its duration.

9-27-06

Date

Jay Garrison
Jay Garrison
Allcast, Inc.

9-27-06

Date

Pamela Blakely
Cheryl Newton, Acting Director
Air and Radiation Division